

ADVISORY OPINION 98-016

Any advisory opinion rendered by the Registry under subsections (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

January 6, 1999

Hon. Mark D. Guilfoyle, Chairman
Patton for Governor Exploratory Committee
P.O. Box 569
181 Frankfort Street
Versailles, Kentucky 40383-0569

Dear Mr. Guilfoyle:

This is in response to your request for an advisory opinion regarding the following questions:

1. Does KRS 121A.060(13) permit a qualifying slate of candidates to be eligible to receive a transfer from the election campaign fund in a primary election if a qualifying slate in another party primary raises the minimum threshold qualifying amount established under KRS 121A.060(1)? If the answer is “yes,” will the Registry promulgate a regulation or clarify the meaning of the term “opposing slate” as used in KRS 121A.060(13)?
2. If the answer to question one (1) is “no,” may a qualifying slate of candidates which signed a statement of intent to accept expenditure limits for the primary receive contributions and expenditures up to \$1.8 million in the primary if there is no opposing slate within its own party primary that raises the minimum threshold qualifying amount? If the answer is “yes,” does the Registry intend to issue an emergency regulation to this effect?

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The 1996 General Assembly amended KRS 121A.060(12) by removing a provision that required a slate to have opposition from the same political party prior to receiving a transfer from the election fund. The deletion of "at least one additional slate of candidates seeking the same party's nomination" and substitution of "at least one opposing slate of candidates" indicates that a slate may be eligible for matching funds in an election when another slate, regardless of political party affiliation, receives three hundred thousand dollars (\$300,000.00) ("qualifying threshold"),¹ the minimum amount required for a slate to qualify for matching dollars from the election campaign fund.

Therefore, a slate which has elected to abide by an expenditure limitation of one million eight hundred thousand dollars (\$1,800,000.00)² in exchange for matching public dollars ("participating slate") would become eligible to receive matching dollars when any other slate in the primary election raises or spends three hundred thousand dollars (\$300,000.00).

In further response to your inquiry regarding clarification of the meaning of "opposing slate," the removal of the qualifying language "unless at least one (1) additional slate of candidates seeking the same party's nomination for Governor and Lt. Governor in the primary election" and substitution of "one opposing slate of candidates" indicates that the legislature intended to remove the "same party" requirement and the only other possible opponent in a primary election would be the opponent of another political party³. Consequently, "opposing slate" includes either a slate of the same political party or a slate of a different political party.

As this opinion clarifies the meaning of "opposing slate" there is no need for the Registry to promulgate an emergency regulation.

Sincerely,

Rosemary F. Center
General Counsel

RFC/jlw

¹ Expenditure limits and threshold amounts are adjusted in accordance with the consumer price index for urban workers. (KRS 121A.030(2) and KRS 121A.060(1)).

² KRS 121A.030(2).

³ The primary is a party nomination process; however, campaign finance statutes define the primary as a separate election. (Kentucky Constitution Section 148; KRS 121.015(2))